

STATE OF MICHIGAN
COURT OF APPEALS

JERRY W. RODES and MELANIE RODES,

Plaintiffs-Appellants,

v

GLASS ALTERNATIVES CORPORATION,

Defendant-Appellee.

UNPUBLISHED

March 20, 1998

No. 198962

Emmet Circuit Court

LC No. 96-003625 NZ

Before: O’Connell, P.J., and White and Bandstra, JJ.

PER CURIAM.

Plaintiffs appeal as of right from an order granting defendant’s motion for summary disposition. We affirm.

In this case, we are asked to decide whether defendant is immune from tort liability under the exclusive remedy provision of the Worker’s Disability Compensation Act (WDCA), MCL 418.131; MSA 17.237(131). The trial court relied upon *Farrell v Dearborn Mfg Co*, 416 Mich 267; 330 NW2d 397 (1982), in concluding that defendant was immune from tort liability. Plaintiffs argue that *Farrell*, a case that involved short-term, temporary employee leases, is distinguishable and inapplicable in this case. We disagree. The question regarding the liabilities of a labor broker and its customer in relation to the exclusive remedy provision of the WDCA, was recently addressed by the Supreme Court in *Kidder v Miller-Davis Co*, 455 Mich 25, 41 n 8; 564 NW2d 872 (1997), where the Court stated that “[t]he fact that the contract was for twelve months, renewable yearly, does not change the fact that CLS was a labor broker providing temporary workers.”

In comparing *Kidder* and *Farrell* to the circumstances of the present case, we conclude that a labor broker relationship existed between DART and defendant such that a coemployer relationship was formed, thus precluding a separate tort action by plaintiffs against defendant, the customer of the labor broker (i.e., DART). *Kidder, supra* at 40. Furthermore, in applying the economic reality test to the employer-employee relationship in the present case, we conclude that DART, the labor broker, and defendant, its customer, were coemployers, and that each employer was protected by, and entitled to, the benefit of the exclusive remedy provision of the WDCA. *Kidder, supra* at 42-47.

In light of our disposition of this issue, we need not address plaintiffs' other issue regarding the validity of the employment agreement.

We affirm.

/s/ Peter D. O'Connell

/s/ Helene N. White

/s/ Richard A. Bandstra